

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

DAVID LAUX AND TARA LONG, VC 2013-MA-007 Appl. under Sect(s). 18-401 of the Zoning Ordinance to permit existing fence greater than 7.0 ft. in height to remain in the rear yard. Located at 4613 Randolph Dr., Annandale, 22003, on approx. 24,798 sq. ft. of land zoned R-2. Mason District. Tax Map 71-2 ((11)) 6. (Concurrent with SP 2013-MA-041). Mr. Byers moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 7, 2013; and

WHEREAS, the Board has made the following findings of fact:

1. The applicants are the owners of the land.
2. The present zoning is R-2.
3. The area of the lot is 24,798 square feet.
4. The subject property was acquired in good faith.
5. There is an extraordinary condition with regard to the property, and that is a steep slope.
6. The adjoining property is four to five feet higher than the property of the applicants, and in essence it is going to be a four-foot fence with that adjoining property.
7. The adjacent property owner indicated that it is not an issue.
8. There is going to be a redevelopment of the adjoining properties.
9. The buildings on the next property will be relatively tall, which will take away some of the privacy of the applicants.
10. During the construction period, there will be noise pollution, and there will be pollution from dust and that kind of thing, so there is an extraordinary condition.
11. That applies to 2G, an extraordinary situation or condition of the use or development of the property right next door.
12. The critical criteria is 6B. The granting of the variance will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience sought by the applicants.
13. The authorization of this variance will not be of substantial detriment to the adjacent property.
14. The character of the zoning district will not be changed.
15. The variance will be in harmony with the intended spirit and purpose of this ordinance.
16. It will not be contrary to the public interest.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED** with the following limitations:

1. This variance is approved for the 8 foot rear yard fence on the property as shown on the plat prepared by Dominion Surveyors, Inc., dated November 7, 2012, as submitted with this application and is not transferable to other land.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards including requirements for building permits.

Mr. Hammack seconded the motion, which carried by a vote of 4-0. Mr. Beard, Mr. Smith, and Ms. Gibb were absent from the meeting.

A Copy Teste:

A handwritten signature in cursive script, appearing to read "K.A. Knoth", written in dark ink.

Kathleen A. Knoth
Clerk to the Board of Zoning Appeals